

CITY COUNCIL OF THE CITY OF ANNAPOLIS

ORDINANCE NO. O-11-04

Introduced by Mayor Moyer

AN ORDINANCE concerning

Valuing and Replacing Trees in Development Areas

FOR the purpose of changing the valuation criteria for removed or damaged trees that have been designated for preservation on the landscaping plan, or are outside the limits of development, from a financial valuation system to a replacement policy with limited exceptions, and all matters generally relating to said tree valuation and replacement.

* * * * *

BY repealing in its entirety
Section 17.09.080
Code of the City of Annapolis
(1996 Edition and Supplement)

BY repealing and re-enacting, with amendments the following sections of the
Code of the City of Annapolis, (1996 Edition and Supplement)
Section 17.09.030
Section 17.09.070
Section 17.09.140

Section 17.09.030 Landscape plan.

A. Landscape Plan. Any application for a building or grading permit submitted in accordance with the requirements of this title, or any application for a development project requiring site design review in accordance with the requirements of Chapter 21.98, shall include a landscape plan at a scale of one inch to forty feet. The landscape plan shall be considered a part of the permit or site plan design review application and shall be subject to the review requirements and administrative procedures of this title or Chapter 21.98, whichever shall apply.

B. Submittal Requirements. A landscape plan submitted in accordance with this chapter shall include:

1 1. Limits of Disturbance (LOD). Within the limits of disturbance and within
2 fifteen feet of the LOD, the location, diameter at breast height (DBH), and species
3 of all existing trees equal to or greater than five inches DBH. If the size of the parcel
4 and the number of affected trees renders the individual identification of all trees
5 unreasonable, as mutually determined by the applicant and the dDepartment of
6 nNeighborhood and eEnvironmental pPrograms, accepted methods of forest
7 cruising may be substituted, although all individual trees in excess of twelve inches
8 DBH must be individually identified;
9

10 2. Limits of Project Development. Depict building footprints, access
11 drives, parking areas, public streets, existing and proposed utilities and stormwater
12 management structures, proposed finished grades, and sediment and erosion
13 control structures;
14

15 3. All trees, regardless of size, or tree areas within the legal boundaries
16 of the property which are to be preserved for incorporation into the proposed site
17 design, noting all tree driplines;
18

19 4. Tree preservation details, in accordance with Sections 17.09.040 and
20 17.09.050 of this chapter;
21

22 5. Locations of trees to be replaced under Section 17.09.070 of this
23 chapter, and areas proposed for additional landscaping. The plan shall show:
24

25 a. The tree name, both botanical and common,

26 b. Quantity of each species used in the plan,

27 c. Caliper measured six inches above ground,

28 d. Type of rootstock, and

29 e. Typical planting detail;

30 6. Proposed and required buffer areas;

31 7. Substantive agreement with the site plan design review as required by
32 Chapter 21.98 of this code;
33

34 8. Conformance with all applicable sections of this chapter;
35

36 9. Other relevant information as may be required by the dDepartment of
37 nNeighborhood and eEnvironmental pPrograms.
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1 C. Guidelines for Selecting Trees for Preservation. In determining which
2 trees shall be preserved in the development process, consideration shall be given
3 to preserving those which:
4

5 1. Complement the project design, including the enhancement of building
6 architecture and street-scape appearance;
7

8 2. Exhibit strong branching and rooting capabilities and are disease and
9 insect resistant;
10

11 3. Are tolerant of environmental change, e.g., increased sunlight, heat,
12 wind, alteration of water regime;
13

14 4. Provide a good source of food, cover or nesting sites for wildlife, or act
15 as a wildlife corridor;
16

17 5. Exist in natural groupings, including islands of trees and wildlife
18 corridors;
19

20 6. Complement stormwater management designs;
21

22 7. Augment or do not conflict with sedimentation and erosion control
23 designs;
24

25 8. Do not conflict with existing utilities or proposed utility installation;
26

27 9. Do not have proposed structures, sidewalks, roads, parking lots etc.
28 within driplines;
29

30 10. Are specimens for the particular species or have recognized
31 significance;
32

33 11. Are within proposed buffer areas;
34

35 12. Are recommended for preservation by Maryland Forest, Parks and
36 Wildlife Service (or its successor agencies); or
37

38 13. Are recommended for preservation by the dDepartment of
39 nNeighborhood and eEnvironmental pPrograms for some other reason
40 demonstrated to be in furtherance of the purposes of this chapter as set forth in
41 Section 17.09.020.
42

43 D. Conflicting Criteria. In the event that two or more conflicting guidelines
44 are present in the evaluation of the preservation of trees on a site, consideration

1 shall be given to those criteria most relevant to the planned use of the proposed
2 development.

3
4 E. Applicability. No cutting, clearing, digging or grading may be
5 undertaken within a development area until a landscaping plan has been approved.
6 Neither may any landscaping be undertaken until approval of the permit application
7 and subsequent issuance of the permit.

8
9 F. Replacement Value ~~or~~ of Removed/Damaged Trees. Any trees which
10 have been designated for preservation on the landscaping plan, or are outside the
11 limits of development, and subsequently have been removed or damaged within the
12 boundaries of the property under development, or any adjacent properties, shall be
13 replaced at a value not to exceed the value of each tree as established by the
14 formula in the latest revision of "A Guide to the Professional Evaluation of
15 Landscape Trees, Specimen Shrubs and Evergreens," prepared by the International
16 Society of Arboriculture. A bond may be required for trees designated for
17 preservation according to this value consistent with the mitigation requirements in
18 Section 17.090.080(B)(3) 17.09.070.C.

19
20 G. Exceptions.

21
22 1. A landscape plan shall not be required under the terms of this chapter
23 where the applicant can demonstrate clearly that there are no existing trees or tree
24 areas within the proposed limits of development.

25
26 2. A landscaping plan shall not be required for the regular maintenance
27 of existing public utilities or the approved installation of public utilities, nor shall a
28 replacement value be required or assessed.

29
30 3. The provisions of this chapter do not apply to projects which were
31 granted special exception approval, or building or grading permit approval prior to
32 November 15, 1988, provided that they are in conformance with all other approved
33 plans and conditions.

34
35 **Section 17.09.070 Replacement value--Mitigation--Fee in lieu--Exceptions.**

36
37 A. Replacement Trees. It is the intent of this section to ensure that
38 landscaping proposed in association with development will reflect the density and
39 species of those trees necessarily removed for development. Therefore, trees
40 removed for development shall be replaced according to the following requirements:

41
42 1. Individual trees of from five up to eight inches DBH shall be replaced
43 on a basis of one replacement tree for every four trees removed. Areas of natural
44 vegetation, shrub-scrub vegetation, and saplings less than one-inch DBH shall be

1 replaced on a basis of one shrub or sapling for every 40 square feet of vegetation
2 removed.

3
4 ~~2. Individual trees of from eight six up to twelve inches DBH shall be~~
5 ~~replaced on a basis of one replacement tree for every two trees removed.~~

6
7 ~~3. Individual trees of from twelve up to eighteen inches DBH shall be~~
8 ~~replaced on a basis of one replacement tree for every single tree removed.~~

9
10 ~~4. Individual trees of from eighteen up to twenty-four inches DBH shall~~
11 ~~be replaced on a basis of two replacement trees for every single tree removed.~~

12
13 ~~5. Individual trees of DBH greater than twenty-four inches shall be~~
14 ~~replaced on a basis of three replacement trees for every single tree removed.~~

15
16 ~~6. Regardless of the final total of replacement trees established~~
17 ~~according to these requirements, there must be at least one replacement tree.~~

18
19 1. The number of trees to be replaced are contained in the following
20 table:
21

Table 17.09.070: Tree Replacement Requirements

	Number to be replaced for number removed				
Plant Material Size	Outside Critical Areas	Intensely Developed Areas	Limited Development Areas	Resource Conservation Areas	100 foot Buffer Critical Area
Scrub shrub - sapling <1" DBH	no replacement	1 for every 20 square feet	1 for every 40 square feet	Area basis for area basis	Must obtain approved buffer management plan from the Department of Planning and Zoning
Trees 1 to 4" DBH	no replacement	1 for 1	1 for 2		
Trees 4 to 12" DBH	1 for 2	2 for 1	1 for 1		
Trees 12 to 18" DBH	1 for 1	3 for 1	2 for 1		
Trees 18 to 24" DBH	2 for 1	4 for 1	3 for 1		
Trees >24" DBH	3 for 1	6 for 1	4 for 1		
Additional requirements found in Section	17.09.070	17.09.070 (G)(1-2)	17.09.070 (H)(1-5)	17.09.070 (I)(1-2)	17.09.070 (J)(1-8)

7-2. One or more trees may be transplanted as replacement trees from areas designated to be cleared on a development site; however transplanted trees shall only be used when a professional nursery, landscape contractor, or similar professional qualified to do this work, is employed to transplant the trees. This professional shall meet with City staff prior to moving any trees to ensure that the trees to be moved are healthy and suitable for transplanting.

8-3. ~~Deciduous Replacement trees of nursery stock shall be a species native to Maryland and shall be healthy, free of pests or disease and in good condition. Deciduous species shall be a minimum of two inches in caliper measured six inches from the ground. Coniferous replacement trees of nursery stock shall be a minimum of five feet in height. Transplanted trees shall be, at a minimum, of the approximate size as replacement trees required from nursery stock and shall be healthy, free of pests or disease and in good condition of good appearance and in apparent good health.~~

9-4. Any landscaping requirements imposed under other sections of this code shall include any and all replacement trees.

10-5. Any waiver or modification to these requirements shall be made in accordance with Section 17.09.130 of this chapter.

B. Mitigation. If the number of trees to be planted, as determined by the tree replacement requirements, exceeds the number of trees which can be accommodated practically on site as determined by the dDepartment of nNeighborhood and eEnvironmental pPrograms, off-site planting may be requested at locations as determined by the developer and/or the dDepartments of nNeighborhood and eEnvironmental pPrograms and pPlanning and zZoning, or a fee in lieu of off-site planting may be required as provided in subsection C of this section. Trees removed for development within the critical area must be replaced within the critical area.

C. Fee in Lieu. Where, pursuant to subsection A of this section, replacement on site is not practical and an off-site location cannot be determined and agreed upon by the developer and the dDepartment of nNeighborhood and eEnvironmental pPrograms, a fee in lieu may be assessed which is adequate to ensure an equivalent tree replacement as required by subsection A of this section. In-ground cost plus ten percent will be estimated twenty percent will be estimated by a commercial nursery, landscape contractor, or similar professional and provided by the applicant or developer to the dDepartment of nNeighborhood and eEnvironmental pPrograms for approval. All funds collected by this process will be expended exclusively for tree planting and tree maintenance within the city under the auspices of the urban forestry program

1 and, wherever possible, within reasonable proximity to the development from
2 which fees are collected for planting. Fees in lieu collected for trees removed
3 within the critical area shall be expended exclusively for tree planting and tree
4 maintenance within the critical area, and if possible within the same creek
5 watershed.
6

7 1. The fee in lieu amount shall be an estimate of the in-ground cost of the
8 required planting plus a twenty percent (20%) charge for administration and
9 implementation by the City. The applicant or developer shall provide an estimate
10 prepared by a commercial nursery, landscape contractor, or similar professional
11 to the dDepartment of nNeighborhood and eEnvironmental pPrograms for
12 approval.
13

14 2. All funds collected by this process will be expended exclusively for
15 tree planting and tree maintenance within the City under the auspices of the
16 urban forestry program and, wherever possible, within reasonable proximity to
17 the development from which fees are collected for planting.
18

19 3. Fees in lieu collected for trees removed within the critical area shall
20 be expended exclusively for tree planting and tree maintenance within the critical
21 area, and if possible within the same creek watershed.
22

23 D. Exceptions. The following trees removed for development are not
24 subject to the requirements of subsections A, B and C of this section:
25

26 1. Trees removed for the construction of approved roads and the
27 installation or maintenance of public utilities.
28

29 a. Approved roads include city required public roads and fire lanes,
30 but does not include any portion of a parking lot.
31

32 b. Public utilities include gas, electric, water and sewer main
33 transmission lines, and stormwater management structures within required
34 easements;
35

36 2. Trees which have been confirmed by the dDepartment of
37 nNeighborhood and eEnvironmental pPrograms to be hazardous, dead, dying or
38 diseased;
39

40 3. Trees transplanted from one part of a development site to another;
41 and
42

1 4. ~~— Trees located in the critical area as defined by the s~~State of
2 Maryland, the mitigation and replacement of which shall be subject to the
3 requirements of Section 17.09.080 of this chapter.
4

5 E. General Applicability. Except as provided by subsection D of this
6 section, the requirements of this section apply to all development and
7 construction undertaken pursuant to any grading permit or pursuant to any
8 building permit for construction which may involve the disturbance of land but for
9 which a grading permit previously was not required.
10

11 F. Minimum Standards. Afforestation and reforestation as required by the
12 Maryland Forest Conservation Act, Annotated Code of Maryland, Natural
13 Resources Article, Title 5, Subtitle 16 (or its successors) shall be a minimum
14 standard for the replacement and planting of trees where Chapter 17.09 of the
15 eCity eCode applies, regardless of the square footage of the area disturbed.
16

17 G. The locations of intensely developed areas, limited development
18 areas, resource conservation areas and the critical area buffer are shown on the
19 approved critical areas map for the City of Annapolis and its amendments.
20 Proposed development shall be consistent with the approved Critical Areas Plan
21 for the City of Annapolis.
22

23 H. Additional standards for Limited Development Areas
24

25 1. Under normal circumstances, no more than twenty percent of any
26 forest or woodland may be removed from forest use, except as permitted in
27 subsection (C)(3) of this section. The remaining eighty percent shall be
28 maintained through recorded, restrictive covenants or similar instruments.
29

30 2. A developer may clear or develop up to thirty percent of any forest
31 or woodland, provided that the afforested area shall be 1.5 times the total surface
32 acreage of the disturbed forest or developed woodland. The remaining seventy
33 percent shall be maintained through recorded, restrictive covenants or other
34 similar instruments.
35

36 3. If no forest is established on proposed development sites, these
37 sites shall be planted to provide a forest or developed woodland cover of at least
38 fifteen percent of the total surface area of the site.
39

40 4. Forests which have been cleared before obtaining a grading permit,
41 or that exceed the maximum area allowed in subsection (C)(3) of this section
42 shall be planted at three times the areal extent of the cleared forest.
43

5. The developer shall consider the recommendations of the Maryland Forest, Parks and Wildlife Service when planning development on forested lands.

I. Additional standards for Resource Conservation Areas

1. The overall acreage of forest and woodland within the resource conservation area may not be decreased.

2. Any development within a resource conservation area that requires the cutting or clearing of trees must replace the trees on a not less than an equal area basis, except where trees are removed according to subparagraphs 4, 6 and 8 of subsection E of this section.

J. Additional Standards for the Critical Area Buffer

1. A one-hundred-foot buffer is established landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands which is a protected area.

2. New development activities, including structures, roads, parking areas and other impervious surfaces, mining or related facilities, or septic systems, may not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.

3. The buffer shall be maintained in natural vegetation, but may include planted vegetation as approved by the Department of Neighborhood and Environmental Programs where necessary to protect, stabilize or enhance the shoreline.

4. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install and construct a shore erosion protection device or measure, or a water-dependent facility, provided the device, measure or facility has received all necessary city, state, and federal permits.

5. With the concurrence of the Department of Neighborhood and Environmental Programs individual trees may be cut for personal use providing that this cutting does not impair the water quality or existing habitat value or other functions of the buffer, and provided that the trees are replaced on an equal area basis for each tree cut.

6. With the concurrence of the Department of Neighborhood and Environmental Programs, individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in

1 danger of falling and therefore causing the blockage of streams, or resulting in
2 accelerated shore erosion.

3
4 7. Horticultural practices shall be used to maintain the health of individual
5 trees.

6
7 8. Other cutting techniques may be permitted within the one-hundred-foot
8 buffer and under the advice and guidance of the Department of Neighborhood
9 and Environmental Programs, if necessary to preserve the forest from extensive
10 pest or disease infestation or threat from fire.

11
12 K. Forest Preservation Plan. The forest preservation plan as described
13 within the approved critical areas program for the City of Annapolis shall be
14 consistent with the provisions of this chapter.

15
16 L. Forest Undeveloped Wood Land. Where forests or developed
17 woodland occur within the City of Annapolis, local policies and programs for tree
18 cultural operations in the critical area shall be consistent with the critical area
19 program of the City of Annapolis.

20
21 M. Applicability. The requirements of this section are in addition to, and
22 not in lieu of, any and all requisites of Chapter 17.09.

23
24 N. Restrictions. The requirements of this section do not restrict the
25 removal of hazardous, dead, dying or diseased trees, although replacement may
26 be required as determined by the Department of Neighborhood and
27 Environmental Programs, nor are accepted horticultural practices restricted.

28
29 O. Variance Procedures. Variance procedures shall be in accordance
30 with the approved critical areas plan of the City of Annapolis.

31
32 P. Minimum Standards. The provisions of the Maryland Forest
33 Conservation Act, Annotated Code of Maryland, Natural Resources Article, Title
34 5, Subtitle 16,(or its successors) do not apply to the critical area, except that
35 afforestation and reforestation as required by the Act shall be a minimum
36 standard for the replacement and planting of trees.

37
38
39 **Section 17.09.080 Critical area.**

40
41 ——— A. ——— Critical Areas Map. The locations of intensely developed areas,
42 limited development areas, resource conservation areas and the critical area
43 buffer are shown on the approved critical areas map for the city of Annapolis and
44 its amendments.

B. Guidelines for Intensely Developed Areas:

1. Areas of natural vegetation are to be maximized.

2. When the cutting or clearing of trees is associated with development activities, a detailed landscape plan shall be developed showing street tree plantings, buffer plantings and landscaping.

3. Replacement shall be accomplished in accordance with the value of the trees removed as determined by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens" prepared by the International Society of Arboriculture.

4. Off-site mitigation shall be consistent with Section 17.09.070 (B) of this chapter.

5. Fee in lieu shall be consistent with subsection (B)(3) of this section.

6. Proposed development shall be consistent with the approved critical areas plan for the city of Annapolis.

C. Guidelines for Limited Development Areas:

1. All trees that are allowed to be removed shall be replaced in the critical area on a not less than an equal area basis.

2. Under normal circumstances, no more than twenty percent of any forest or woodland may be removed from forest use, except as permitted in subsection (C)(3) of this section. The remaining eighty percent shall be maintained through recorded, restrictive covenants or similar instruments.

3. A developer may clear or develop up to thirty percent of any forest or woodland, provided that the afforested area shall be 1.5 times the total surface acreage of the disturbed forest or developed woodland. The remaining seventy percent shall be maintained through recorded, restrictive covenants or other similar instruments.

4. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least fifteen percent of the total surface area of the site.

1 ~~5. Forests which have been cleared before obtaining a grading permit,~~
2 ~~or that exceed the maximum area allowed in subsection (C)(3) of this section~~
3 ~~shall be planted at three times the areal extent of the cleared forest.~~

4
5 ~~6. The developer shall consider the recommendations of the Maryland~~
6 ~~Forest, Parks and Wildlife Service when planning development on forested lands.~~

7
8 ~~7. Off-site mitigation shall be consistent with Section 17.09.070 of this~~
9 ~~chapter.~~

10
11 ~~8. Fee in lieu shall be consistent with Section 17.09.070 (C) of this~~
12 ~~chapter and shall be adequate to ensure equivalent replacement consistent with~~
13 ~~subsection C of this section.~~

14
15 ~~9. Proposed development shall be consistent with the approved~~
16 ~~critical areas plan for the city of Annapolis.~~

17
18 ~~D. Guidelines for Resource Conservation Areas:~~

19
20 ~~1. The overall acreage of forest and woodland within the resource~~
21 ~~conservation area may not be decreased.~~

22
23 ~~2. Any development within a resource conservation area that requires~~
24 ~~the cutting or clearing of trees must replace the trees on a not less than an equal~~
25 ~~area basis, except where trees are removed according to subparagraphs 4, 6~~
26 ~~and 8 of subsection E of this section.~~

27
28 ~~3. Fee in lieu shall be consistent with Section 17.09.070 (C) of this~~
29 ~~chapter, and shall be adequate to ensure equivalent replacement consistent with~~
30 ~~subsection D of this section.~~

31
32 ~~4. Proposed development shall be consistent with the approved~~
33 ~~critical areas plan for the city of Annapolis.~~

34
35 ~~E. Guidelines for the Critical Area Buffer:~~

36
37 ~~1. A one-hundred-foot buffer is established landward from the mean high water~~
38 ~~line of tidal waters, tributary streams, and tidal wetlands which is a protected~~
39 ~~area.~~

40
41 ~~2. New development activities, including structures, roads, parking areas and~~
42 ~~other impervious surfaces, mining or related facilities, or septic systems, may not~~
43 ~~be permitted in the buffer, except for those necessarily associated with water-~~
44 ~~dependent facilities.~~

1 3. The buffer shall be maintained in natural vegetation, but may include planted
2 vegetation as approved by the department of neighborhood and environmental
3 programs where necessary to protect, stabilize or enhance the shoreline.
4 _____

5
6 4. Cutting of trees or removal of natural vegetation may be permitted where
7 necessary to provide access to private piers, or to install and construct a shore
8 erosion protection device or measure, or a water-dependent facility, provided the
9 device, measure or facility has received all necessary city, state, and federal
10 permits.

11
12 5. With the concurrence of the department of neighborhood and environmental
13 programs, individual trees may be cut for personal use providing that this cutting
14 does not impair the water quality or existing habitat value or other functions of the
15 buffer, and provided that the trees are replaced on an equal area basis for each
16 tree cut.

17
18 6. With the concurrence of the department of neighborhood and environmental
19 programs, individual trees may be removed which are in danger of falling and
20 causing damage to dwellings or other structures, or which are in danger of falling
21 and therefore causing the blockage of streams, or resulting in accelerated shore
22 erosion.

23
24 7. Horticultural practices shall be used to maintain the health of individual trees.
25

26 8. Other cutting techniques may be permitted within the one-hundred-foot buffer
27 and under the advice and guidance of the department of neighborhood and
28 environmental programs, if necessary to preserve the forest from extensive pest
29 or disease infestation or threat from fire.

30
31 F. Forest Preservation Plan. The forest preservation plan as described within the
32 approved critical areas program for the city of Annapolis shall be consistent with
33 the provisions of this chapter.

34
35 G. Forest Undeveloped Wood Land. Where forests or developed woodland
36 occur within the city of Annapolis, local policies and programs for tree cultural
37 operations in the critical area shall be consistent with the critical area program of
38 the city of Annapolis.

39
40 H. Applicability. The requirements of this section are in addition to, and not in
41 lieu of, any and all requisites of Chapter 17.09.

42
43 I. Restrictions. The requirements of this section do not restrict the removal of
44 hazardous, dead, dying or diseased trees, although replacement may be

1 ~~required as determined by the department of neighborhood and environmental~~
2 ~~programs, nor are accepted horticultural practices restricted.~~

3
4 J. Variance Procedures. ~~Variance procedures shall be in accordance with the~~
5 ~~approved critical areas plan of the city of Annapolis.~~

6
7 K. Minimum Standards. ~~The provisions of the Maryland Forest Conservation~~
8 ~~Act, Annotated Code of Maryland, Natural Resources Article, Title 5, Subtitle~~
9 ~~16, (or its successors) do not apply to the critical area, except that afforestation~~
10 ~~and reforestation as required by the Act shall be a minimum standard for the~~
11 ~~replacement and planting of trees.~~

12
13
14 **Section 17.09.140 Enforcement--Violation--Penalties.**

15
16 A. Enforcement. ~~The administration and enforcement of this chapter~~
17 ~~shall be the responsibility of the dDepartment of nNeighborhood and~~
18 ~~eEnvironmental pPrograms.~~

19
20 B. Violation. ~~Violation of this chapter may be cause for the developer~~
21 ~~to be required to stop work until a satisfactory resolution is established by the~~
22 ~~dDepartment of nNeighborhood and eEnvironmental pPrograms in consultation~~
23 ~~with the pPlanning and zZoning dDepartment and the developer.~~

24
25 C. Penalties. ~~Any developer who violates this chapter is guilty of a~~
26 ~~municipal infraction and is subject to a fine as established by resolution of the city~~
27 ~~council of one hundred dollars for any single, initial violation and a fine of one~~
28 ~~hundred dollars for each repeat or continuing violation. The unapproved removal~~
29 ~~of a single tree constitutes a single violation and each day a violation continues~~
30 ~~without abatement or mitigation will be considered a separate violation with fines~~
31 ~~as established by resolution of the city council. If any trees shown to be~~
32 ~~preserved on the approved plan subsequently are removed or are dead or dying~~
33 ~~because of acts of negligence by a developer, this shall be considered a violation~~
34 ~~and fines shall be assessed. they The trees shall be replaced by the developer,~~
35 ~~or the developer shall be assessed a fee in lieu. The size, species and quantity of~~
36 ~~replacement trees or fee in lieu shall be specified by the dDepartment of public~~
37 ~~works nNeighborhood and eEnvironmental pPrograms and shall be consistent~~
38 ~~with section 17.090.080(B)(3) 17.09.070.C. If necessary, off-site locations~~
39 ~~identified by the department may be utilized if there are constraints on the site.~~
40 ~~based upon the value of the trees that were to have been saved as determined~~
41 ~~by the formula in the latest revision of "A Guide to the Professional Evaluation of~~
42 ~~Landscape Trees, Specimen Shrubs and Evergreens," prepared by the~~
43 ~~International Society of Arboriculture. The quantity shall be dictated by the~~

constraints of the site. Replacement shall be within a time frame specified by the
Department of public works nNeighborhood and eEnvironmental pPrograms.

D. Replacement Trees. In addition to any other penalty or requirement that may be imposed under this section, if any trees shown to be preserved on the approved plan subsequently are removed or are dead or dying because of acts of negligence by a developer, they shall be replaced by the developer. or the developer shall be assessed a fee in lieu of replacement. The size, species and quantity of replacement trees or fee in lieu of replacement shall be specified by the dDepartment of nNeighborhood and eEnvironmental pPrograms based upon Section 17.090.080(B)(3) 17.09.070.C. the value of the trees that were to have been saved as determined by the formula in the latest revision of "A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs and Evergreens," prepared by the International Society of Arboriculture. The quantity shall be dictated by the constraints of the site. Replacement shall be within a time frame specified by the dDepartment of nNeighborhood and eEnvironmental pPrograms.

E. Appeals. The bBuilding bBoard of aAppeals shall consider appeals from the provisions of this chapter from the determination of the dDirector of nNeighborhood and eEnvironmental pPrograms in the manner specified in the building code. The bBoard may make determinations of alternative methods, standards or materials when, in its opinion, strict compliance with this chapter is unnecessary. The provisions of this subsection shall not apply to any municipal citation issued pursuant to section.

**SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED
BY THE ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.

ADOPTED this 13th day of September, 2004.

ATTEST:

THE ANNAPOLIS CITY COUNCIL

Deborah Heinbuch, MMC
City Clerk

BY: _____
ELLEN O. MOYER, MAYOR

EXPLANATION:

Redlining indicates matter added to existing law.

~~Strike Out indicates matter deleted from existing law.~~

Underlining indicates amendments.